



## *Memorandum*

**TO: HONORABLE MAYOR AND  
CITY COUNCIL**

**FROM: Stephen M. Haase**

**SUBJECT: SEE BELOW**

**DATE: August 12, 2004**

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**COUNCIL DISTRICT: 7**

**SNI AREA: West Evergreen**

**SUBJECT: PDC04-008. PLANNED DEVELOPMENT REZONING FROM LI-LIGHT INDUSTRIAL TO A(PD) PLANNED DEVELOPMENT TO ALLOW UP TO 70,000 SQUARE FEET OF RETAIL, 50,000 SQUARE FEET OF MEDICAL OFFICE OR AN 80-BED ASSISTED LIVING FACILITY FOR THE ELDERLY, AND UNIMPROVED LAND TO BE DEDICATED FOR PUBLIC PARK USE LOCATED AT THE SOUTHWEST CORNER OF ABORN ROAD AND SILVER CREEK ROAD.**

### **RECOMMENDATION**

The Planning Commission voted 6-0-1 (Platten, absent) to recommend that the City Council approve the proposed Planned Development Rezoning as recommended by Staff.

### **BACKGROUND**

The Draft Mitigated Negative Declaration for this project was distributed on July 9, 2004 to property owners and occupants within 1,000 feet of the project site. One letter protesting the adequacy of the Mitigated Negative Declaration was filed in the Department of Planning, Building and Code Enforcement on July 27, 2004. The letter expressed concerns regarding existing traffic conditions.

The project was originally scheduled for consideration by the Planning Commission on July 28, 2004. The project was deferred to allow time for the preparation of a response to the Mitigated Negative Declaration protest.

On August 11, 2004, the Planning Commission heard testimony regarding the protest of the Mitigated Negative Declaration adopted for the project in conjunction with holding a public hearing to consider the Planned Development rezoning from LI-Light Industrial to A(PD) Planned Development to allow up to 70,000 square feet of retail, 50,000 square feet of medical office or an 80-bed assisted living facility for the elderly, and unimproved land to be dedicated for public park use.

The Director of Planning, Building and Code Enforcement recommended approval of the proposed rezoning.

Erik Schoennauer, on behalf of Barry Swenson Builder, the applicant, presented a summary of the project. He stated that the applicant has been working with the community for nine months, through five community meetings to ensure that the proposed project was consistent with the West Evergreen SNI plan.

Leah Langill, the principal protestant of the Mitigated Negative Declaration, and area resident, spoke about the existing traffic conditions. Ms. Langill suggested that smaller area streets should be evaluated and requested that the City take an in depth look at existing traffic conditions. She indicated that residents of the neighborhood east of South King Road and north of Aborn Road are required to change their traffic patterns because they cannot make left turns onto Southbound King Road. Lee Lowrie, Jr., an area resident, also had concerns with the validity of the Mitigated Negative Declaration with respect to significant traffic impacts not being addressed at smaller streets.

Jerry Baker and his mother, Jonna Mae Baker, neighboring residents, spoke in favor of the proposed project. Mr. Baker and his mother both noted that the proposed park site and street improvements would be a benefit to the neighborhood.

José Aranda, Co-chair of the West Evergreen NAC, spoke in favor of the proposed project. Mr. Aranda noted that although the community has traffic concerns, the NAC unanimously agreed that the project would be beneficial to the community. Mr. Aranda disputed the claim that residents of the neighborhood west of South King Road are unable to make left turns onto southbound South King Road, stating that through his observations it was not difficult to make left or right turns onto South King Road.

Carlos DaSilva, a member of the West Evergreen NAC, spoke in favor of the proposed project. Mr. DaSilva reiterated the community's desire to see the site developed and that any other use on the site would also generate traffic. Commissioner Dhillon asked Mr. DaSilva if there was any money to develop the park site. Mr. DaSilva indicated that there was no money allocated at this time, but the NAC would be working with staff to determine if money could be allocated to develop and implement a plan for the park site.

Erik Schoennauer noted that the Woodbridge Home Owners Association, the West Evergreen NAC, and a group of community members, provided letters in support of the proposed project. He explained that the letter from the group of community members clarified that they are supportive of the project, but wanted to bring attention to the existing traffic conditions. Mr. Schoennauer concluded with the statement that the project would be adding an insignificant number of trips to King Road between Aborn and Tully Roads.

Commissioner Zito questioned Mr. Schoennauer, based on his read of the initial study, whether the project would create significant traffic impacts. Mr. Schoennauer explained that the project would have significant impacts at the intersections noted in the Initial Study and that the project would be responsible for \$300,000 in mitigation. The mitigation required would reduce the impacts to a level of insignificant for purposes of CEQA.

Commissioner Zito asked if sidewalks and improvements would be installed along the park frontage. Mr. Schoennauer responded that the developer is required to build sidewalk and street improvements along the park frontage to City specifications. Jerry Baker, an area resident, added that the City is in the process of improving Aborn Road across the street from the park.

The Planning Commission then closed the public hearing. Chair Levy asked staff to respond to comments regarding why smaller streets were not considered in the traffic analysis. Department of Public Works staff answered that the comprehensive traffic analysis for this project was prepared in accordance with the City's Level of Service policies and with the countywide Congestion Management Plan. The traffic analysis demonstrated that there would be significant impacts that would need to be mitigated. The traffic conditions affecting the smaller streets is a pre-existing condition. The Department of Transportation has recently modified signal timing on southbound King Road, which has improved traffic flow. City staff will continue to work with the community to try to address their concerns with the existing traffic conditions.

Commissioner James asked staff if there was any hope for improving left turns onto southbound King Road. Department of Public Works staff answered that a Department of Transportation study demonstrated that signals at the intersections of concern were not warranted at this time. Chair Levy asked if the proposed mitigation measures would help the smaller streets. Public Works staff answered that the project was not adding any traffic to the small side streets along King Road. Chair Levy suggested that if flow along Aborn Road was improved due to the proposed mitigation that that would help the smaller "feeder streets".

Commissioner Campos commented that it was difficult for him to look at the traffic report which shows that no matter what mitigation was implemented some of the area intersections would still be operating at a Level of Service of "F".

Commissioner Zito expressed concerns about the two options built into the zoning and that one presented worse traffic impacts than the other. Commissioner Zito recalled a previous project that had included mitigation measures at the same intersections. Public Works staff clarified that this project and a Braddock & Logan project on Quimby Road are coordinating mitigation at two intersections that both projects impact. Commissioner Zito asked if the existing traffic problems could be fixed. Public Works staff answered that the proposed mitigation represents good improvements, but would not bring the intersections that are Level of Service "E or F" to a Level of Service "D" or better. Commissioner Zito concluded that at least the site was not being developed as high density housing and that this project represented the lesser of two evils.

The City Attorney clarified that the developer is not required to fix the existing traffic problems only the incremental impact caused by the project.

The Planning Commission upheld the Director's decision to adopt the Mitigated Negative Declaration and found the Initial Study and Mitigated Negative Declaration to be in compliance with the requirements of the California Environmental Quality Act (CEQA).

Commissioner James made a motion to approve the project. There was no further discussion. The Commission voted 6-0-1 (Platten, absent) to recommend approval of the project.

## PUBLIC OUTREACH

Notices of the public hearing were distributed to the owners and tenants of all properties located within 1000 feet of the subject site as well as published in the San Jose Post Record. The Planning Commission and City Council agendas are posted on the City of San Jose website with copies of the staff report and City Council memo.

Copies of the Initial Study and Mitigated Negative Declaration were made available at the Dr. Martin Luther King, Jr. Main Library and Evergreen Branch Library as well as posted on the City's website.

On March 22, 2004 the developer presented their proposal at a regular meeting of the West Evergreen Strong Neighborhoods Initiative Neighborhood Advisory Committee (NAC). On April 20, 2004 the developers held a community meeting. In both cases the community was supportive of the project.

Staff has been available to discuss the project with interested members of the public.

## COORDINATION

As standard procedure in the development review process, this project was coordinated with the Department of Public Works, Department of Transportation, Fire Department, Police Department, Environmental Services Department and the City Attorney. A final memo from the Department of Public Works and a traffic memo are included in the original Planning Commission staff report.

## CEQA

Mitigated Negative Declaration, City File No. PDC04-008.

  
STEPHEN M. HAASE  
Secretary, Planning Commission

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